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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/871,111

Filing Date: May 31, 2001

Appellant(s): COMSTOCK ET AL.

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Matthew J. Swietlik  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 12/28/2009 appealing from the Office action mailed 7/29/2009.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

2002/0071416	Carlson	06-2002
7,444,669	Bahl	10-2008

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 2-7, 9-10, 12-13, 15-19, 21-22, 29-30, 32-34, 37-38, 40, 43, 45-47, 49, 60-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson et al (2002/0071416 hereinafter Carlson).

Regarding claim 7. Carlson teaches a method of crediting an account of a network access node, comprising:

receiving a data signal wirelessly at the network access node (see figure 1 wherein portable handheld device (item 124) is used to relay data signal between a first

wireless device (item 114) and the wireless network (item 143) which connects to Internet Service Provider. **In other words, the first device 114 sends request for Internet service via transceiver 118 to a network access node 124 wherein the request is received via transceiver 128;**

forwarding the data signal wirelessly to a network user node (see figure 1 wherein portable handheld device (item 124) is used to relay data signal between a first wireless device (item 114) and the wireless network (item 143) which connects to Internet Service Provider wherein the portable handheld device relays information from the ISP to the requesting first wireless device (item 114). **In other words, the network access node 124 uses transceiver 128 to forward the requested Internet data to the first device 114 wherein the first device 114 receives the forwarded data signal via transceiver 118;**

providing account crediting information to an accounting system, wherein the account crediting information represents a credit to be recorded for an account associated with the network access node.

Carlson shows wherein the Internet service provider provides access to the Internet via a fixed access point (see figure 1 wherein Internet service provider item 143 provides access to the Internet via fixed access point (see wire connection 145) or by wireless connection (see wireless connection 147).

Carlson does not use the term "account crediting information represents a credit to be recorded for an account associated with the network access node". However, Carlson teaches the Internet Service Provider (i.e. second account) gets paid for the

connection services which obviously requires some sort of "account" to be given credit for services rendered --- paragraph 0052, Carlson also discloses that the owner of the second wireless portal (item 124) is also gets credit (i.e. first account) for relay Internet messages between the first user device (item 114) and the wireless network (item 143) --- paragraph 0052 which obviously requires the owners account (i.e. first account). In fact, Carlson teaches the owner of the second wireless device (item 124) can even service another wireless device that is willing to Pay more for the connection time (paragraph 0057) which obviously provides a higher credit towards the owners account (i.e. first account); and

**In other words, Carlson at paragraphs 0036-0037 discloses an accounting system associated with the network user node 124 which is used to monitor and collect crediting information relating to Internet services that are provided by the network access node 124 to the requesting user node 114. Carlson at paragraphs 0043-0047 discloses negotiation for Internet services which includes acceptable forms of payment, cost of service, average speed of connection, best deal or price which implies that an accounting system is used to process account crediting information relating to the network access node 124.**

**Most importantly, Carlson at paragraph 0052 reveals that the present invention allows the owner of the network access node 124 (e.g., a cell phone acting as a mobile access point) can cover the per minute connection charge of the owner's service and defray some of the cost associated with cellular connection service (e.g., monthly cellular phone service charges). One of**

**ordinary skill in the art at the time of invention would clearly recognize that a second account would be needed to pay the Internet service provider.**

providing second account crediting information to the accounting system, wherein the second account crediting information represents a second credit to be recorded to an account associated with an Internet service provider and the data signal is provided by the Internet service provider; wherein the network access node is a portable, handheld device having a display.

Carlson does not use the term "second account". However, Carlson teaches the Internet Service Provider (i.e. second account) gets paid for the connection services which obviously requires some sort of "account" to be given credit for services rendered --- paragraph 0052, Carlson also discloses that the owner of the second wireless portal (item 124) is also gets credit (i.e. first account) for relay Internet messages between the first user device (item 114) and the wireless network (item 143) --- paragraph 0052 which obviously requires the owners account (i.e. first account). In fact, Carlson teaches the owner of the second wireless device (item 124) can even service another wireless device that is willing to pay more for the connection time (paragraph 0057) which obviously provides a higher credit towards the owners account (i.e. first account).

**In other words, Carlson at paragraphs 0036-0037 discloses an accounting system associated with the network user node 124 which is used to monitor and collect crediting information relating to Internet services that are provided by the network access node 124 to the requesting user node 114. Carlson at paragraphs 0043-0047 discloses negotiation for Internet services which includes acceptable**

**forms of payment, cost of service, average speed of connection, best deal or price which implies that an accounting system is used to process account crediting information relating to the network access node 124.**

**Most importantly, Carlson at paragraph 0052 reveals that the present invention allows the owner of the network access node 124 (e.g., a cell phone acting as a mobile access point) can cover the per minute connection charge of the owner's service and defray some of the cost associated with cellular connection service (e.g., monthly cellular phone service charges). One of ordinary skill in the art at the time of invention would clearly recognize that a second account would be needed to pay the Internet service provider. This would also be true in the case that another network access node 124 offering a better deal (i.e. 5 cents per minute) instead of the previous access node 124 who offers (i.e. 10 cents per minute). One of ordinary skill in the art at the time of the invention would clearly recognize that another account (i.e. second, third, forth, etc.) would be needed to pay the Internet service provider that offers the best deal.**

Regarding claim 2. Carlson teaches wherein the network access node (portable handheld device (item 124 figure 1) is a repeater (see figure 1 wherein portable handheld device (item 124) is used to relay data signal between a first wireless device (item 114) and the wireless network (item 143) which connects to Internet Service Provider wherein the portable handheld device relays information from the ISP to the requesting first wireless device (item 114)).

Regarding claim 3. Carlson teaches wherein the network access node (portable handheld device (item 124 figure 1)) is further part of an ad hoc network (see figure 1 and paragraph 0016 wherein hand-held PDA or cell phone forms a short-range network which reads on ad-hoc, see paragraph 0032 and figure 1 wherein short-range network is defined as a Personal Area Network which also reads on ad hoc).

Regarding claim 4. Carlson teaches wherein the network access node is an access point (see item 143 in figure 1 which is the point of access for the Internet service provider which can connect to the ad-hoc network via wire (item 145 figure 1) or wirelessly (item 147 figure 1 ).

Regarding claim 5. Carlson does not explicitly show wherein the data signal is received from a public telephone. However, Carlson teaches the portable handheld device (item 124 figure 1) can use wireless communication between the first wireless device and Internet Service Provider network. Carlson further shows the portable handheld device (item 124 figure 1) can use wireline connection (item 145) to connect to the Internet Service Provider. Therefore, it would take very little effort for one of ordinary skill in the art to use wired connection (i.e. public telephone) to a first device because it is old and well-known that connection to Internet Service Provider can be made over public telephone line.

Regarding claim 6. Carlson teaches providing account debiting information to the accounting system, wherein the account debiting information represents a debit to be recorded for an account associated with the network user node (i.e. the first user device

item 114 figure 1 -- see paragraphs 0051-0057 wherein the first wireless device pays for the requested Internet Service by using credit card number).

Regarding claim 9. Carlson teaches wherein the credit is based on the forwarded data signal (see paragraphs 0052, 0046, 0057 wherein portable handheld device (item 124 figure 1) gets per minute connection credit for relaying Internet messages between first wireless device (item 114 figure 1) the Internet Service Provider).

Regarding claim 10. Carlson teaches wherein the credit is based on at least one of the time of day and airtime usage of the data signal (see paragraphs 0052, 0046, 0057 wherein portable handheld device (item 124 figure 1) gets per minute connection credit for relaying Internet messages between first wireless device (item 114 figure 1) the Internet Service Provider, see paragraph 0037 wherein meter used to measure the amount of minutes of the connection).

Regarding claim 12. Carlson teaches wherein the step of forwarding includes transmitting the data signal using a wireless local area network (WLAN) protocol (see 802.11 in paragraph 0005, see figure 1 wherein portable handheld device (item 124 figure 1) communicates wirelessly with Internet Service Provider).

Regarding claim 13. Carlson teaches wherein the WLAN protocol is the IEEE 802.11 protocol (see 802.11 in paragraph 0005).

Regarding claim 17. Carlson teaches a portable device configured as a repeater, comprising:

means for receiving a data signal wirelessly at the portable device (see figure 1 wherein portable handheld device (item 124) is used to relay data signal between a first

wireless device (item 114) and the wireless network (item 143) which connects to Internet Service Provider);

means for forwarding the data signal wirelessly from the portable device to a network user node (see figure 1 wherein portable handheld device (item 124) is used to relay data signal between a first wireless device (item 114) and the wireless network (item 143) which connects to Internet Service Provider wherein the portable handheld device relays information from the ISP to the requesting first wireless device (item 114));

means for providing account crediting information to an accounting system, wherein the account crediting information represents a credit to be recorded for an account associated with the portable device.

Carlson shows wherein the Internet service provider provides access to the Internet via a fixed access point (see figure 1 wherein Internet service provider item 143 provides access to the Internet via fixed access point (see wire connection 145} or by wireless connection (see wireless connection 147).

Carlson does not use the term "account crediting information to an accounting system, wherein the account crediting information represents a credit to be recorded for an account associated with the portable device". However, Carlson teaches the Internet Service Provider (i.e. second account) gets paid for the connection services which obviously requires some sort of "account" to be given credit for services rendered --- paragraph 0052, Carlson also discloses that the owner of the second wireless portal (item 124) is also gets credit (i.e. first account) for relay Internet messages between the first user device (item 114) and the wireless network (item 143) --- paragraph 0052

which obviously requires the owners account (i.e. first account). In fact, Carlson teaches the owner of the second wireless device (item 124) can even service another wireless device that is willing to pay more for the connection time (paragraph 0057) which obviously provides a higher credit towards the owners account (i.e. first account)

means for providing second account crediting information to the accounting system, wherein the data signal is provided by an Internet service provider, wherein the second account crediting information represents a second credit to be recorded to an account associated with an Internet service provider.

Carlson does not use the term "second account". However, Carlson teaches the Internet Service Provider (i.e. second account) gets paid for the connection services which obviously requires some sort of "account" to be given credit for services rendered --- paragraph 0052, Carlson also discloses that the owner of the second wireless portal (item 124) is also gets credit (i.e. first account) for relay Internet messages between the first user device (item 114) and the wireless network (item 143) --- paragraph 0052 which obviously requires the owners account (i.e. first account). In fact, Carlson teaches the owner of the second wireless device (item 124) can even service another wireless device that is willing to pay more for the connection time (paragraph 0057) which obviously provides a higher credit towards the owners account (i.e. first account).

Regarding claim 15. Carlson teaches wherein the portable device (portable handheld device (item 124 figure 1)) is further part of an ad hoc network (see figure 1 and paragraph 0016 wherein hand-held PDA or cell phone forms a short-range network

which reads on ad-hoc, see paragraph 0032 and figure 1 wherein short-range network is defined as a Personal Area Network which also reads on ad hoc).

Regarding claim 16. Carlson teaches means for providing account debiting information to the accounting system, wherein the account debiting information represents a debit to be recorded for an account associated with the network user node (i.e. the first user device item 114 figure 1 -- see paragraphs 0051-0057 wherein the first wireless device pays for the requested Internet Service by using credit card number).

Regarding claim 18. Carlson teaches wherein the credit is based on the forwarded data signal (see paragraphs 0052, 0046, 0057 wherein portable handheld device (item 124 figure 1) gets per minute connection credit for relaying Internet messages between first wireless device (item 114 figure 1) the Internet Service Provider).

Regarding claim 19. Carlson teaches wherein the credit is based on at least one of the time of day and airtime usage of the data signal (see paragraphs 0052, 0046, 0057 wherein portable handheld device (item 124 figure 1) gets per minute connection credit for relaying Internet messages between first wireless device (item 114 figure 1) the Internet Service Provider, see paragraph 0037 wherein meter used to measure the amount of minutes of the connection).

Regarding claim 21. Carlson teaches wherein the means for forwarding includes transmitting the data signal using a wireless local area network (WLAN) protocol (see 802.11 in paragraph 0005, see figure 1 wherein portable handheld device (item 124 figure 1) communicates wirelessly with Internet Service Provider).

Regarding claim 22. Carlson teaches the network user node is a portable device (see portable handheld device (item 124 figure 1)).

Regarding claim 29. Carlson teaches an accounting method for crediting an account associated with a network access node, comprising:

receiving a communication event message, wherein the communication event message includes identification data representing a network access node, wherein the communication event message is received in response to the network access node  
wirelessly receiving and wirelessly forwarding a data signal on behalf of a network user node (see figure 1 wherein portable handheld device (item 124) is used to relay data signal between a first wireless device (item 114) and the wireless network (item 143) which connects to Internet Service Provider wherein the portable handheld device relays information from the ISP to the requesting first wireless device (item 114));

crediting an account associated with the network access node based on the communication event message; and

Carlson does not use the term "account associated with the network access node". However, Carlson teaches the Internet Service Provider (i.e. second account) gets paid for the connection services which obviously requires some sort of "account" to be given credit for services rendered --- paragraph 0052, Carlson also discloses that the owner of the second wireless portal (item 124) is also gets credit (i.e. first account) for relay Internet messages between the first user device (item 114) and the wireless network (item 143) --- paragraph 0052 which obviously requires the owners account (i.e. first account). In fact, Carlson teaches the owner of the second wireless device (item

124) can even service another wireless device that is willing to pay more for the connection time (paragraph 0057) which obviously provides a higher credit towards the owners account (i.e. first account);

crediting an account associated with an Internet service provider, wherein the data signal is provided by the Internet service provider, wherein the communication event message includes second identification data representing the Internet service provider; wherein the network access node is a portable device.

Carlson shows wherein the Internet service provider provides access to the Internet via a fixed access point (see figure 1 wherein Internet service provider item 143 provides access to the Internet via fixed access point (see wire connection 145) or by wireless connection (see wireless connection 147).

Carlson does not use the term "account associated with an Internet service provider". However, Carlson teaches the Internet Service Provider (i.e. second account) gets paid for the connection services which obviously requires some sort of "account" to be given credit for services rendered --- paragraph 0052, Carlson also discloses that the owner of the second wireless portal (item 124) is also gets credit (i.e. first account) for relay Internet messages between the first user device (item 114) and the wireless network (item 143) --- paragraph 0052 which obviously requires the owners account (i.e. first account). In fact, Carlson teaches the owner of the second wireless device (item 124) can even service another wireless device that is willing to pay more for the connection time (paragraph 0057) which obviously provides a higher credit towards the owners account (i.e. first account).

Regarding claim 30. Carlson teaches wherein the network access node receives and forwards the data signal via a wireless local area network (WLAN) protocol (see 802.11 in paragraph 0005, see figure 1 wherein portable handheld device (item 124 figure 1) communicates wirelessly with Internet Service Provider).

Regarding claim 32. Carlson does not explicitly show wherein the data signal is received from a public telephone. However, Carlson teaches the portable handheld device (item 124 figure 1) can use wireless communication between the first wireless device and Internet Service Provider network. Carlson further shows the portable handheld device (item 124 figure 1) can use wireline connection (item 145) to connect to the Internet Service Provider. Therefore, it would take very little effort for one of ordinary skill in the art to use wired connection (i.e. public telephone) to a first device because it is old and well-known that connection to Internet Service Provider can be made over public telephone line.

Regarding claim 33. Carlson teaches a method of crediting an account associated with an access point, comprising:

receiving a data signal wirelessly at the access point (see figure 1 wherein portable handheld device (item 124) is used to relay data signal between a first wireless device (item 114) and the wireless network (item 143) which connects to Internet Service Provider wherein the portable handheld device relays information from the ISP to the requesting first wireless device (item 114));

forwarding the data signal wirelessly to a network user node using a wireless local area network (WLAN) communication standard (see figure 1 wherein portable

handheld device (item 124) is used to relay data signal between a first wireless device (item 114) and the wireless network (item 143) which connects to Internet Service Provider wherein the portable handheld device relays information from the ISP to the requesting first wireless device (item 114), Carlson teaches forwarding includes transmitting the data signal using a wireless local area network (WLAN) protocol (see 802.11 in paragraph 0005, see figure 1 wherein portable handheld device (item 124 figure 1) communicates wirelessly with Internet Service Provider); and providing account crediting information to an accounting system, wherein the account crediting information represents a credit to be recorded for an account associated with the access point.

Carlson shows wherein the Internet service provider provides access to the Internet via a fixed access point (see figure 1 wherein Internet service provider item 143 provides access to the Internet via fixed access point (see wire connection 145} or by wireless connection (see wireless connection 147).

Carlson does not use the term "account crediting information represents a credit to be recorded for an account associated with the access point". However, Carlson teaches the Internet Service Provider (i.e. second account) gets paid for the connection services which obviously requires some sort of "account" to be given credit for services rendered --- paragraph 0052, Carlson also discloses that the owner of the second wireless portal (item 124) is also gets credit (i.e. first account) for relay Internet messages between the first user device (item 114) and the wireless network (item 143) --- paragraph 0052 which obviously requires the owners account (i.e. first account). In

fact, Carlson teaches the owner of the second wireless device (item 124) can even service another wireless device that is willing to pay more for the connection time (paragraph 0057) which obviously provides a higher credit towards the owners account (i.e. first account); and

wherein the data signal is received from the Internet see figure 1 wherein portable handheld device (item 124) is used to relay data signal between a first wireless device (item 114) and the wireless network (item 143) which connects to Internet Service Provider wherein the portable handheld device relays information from the ISP to the requesting first wireless device (item 114)); and

wherein the access point network user node is a portable, handheld device having a display (see portable handheld device (item 124 figure 1)).

Regarding claim 34. Carlson teaches providing account debiting information to the accounting system, wherein the account debiting information represents a debit to be recorded for an account associated with the network user node (i.e. the first user device item 114 figure 1 -- see paragraphs 0051-0057 wherein the first wireless device pays for the requested Internet Service by using credit card number).

Regarding claim 37. Carlson teaches wherein the credit is based on the forwarded data signal (see paragraphs 0052, 0046, 0057 wherein portable handheld device (item 124 figure 1) gets per minute connection credit for relaying Internet messages between first wireless device (item 114 figure 1) the Internet Service Provider).

Regarding claim 38. Carlson teaches wherein the credit is based on at least one of the time of day and airtime usage of the data signal (see paragraphs 0052, 0046, 0057 wherein portable handheld device (item 124 figure 1) gets per minute connection credit for relaying Internet messages between first wireless device (item 114 figure 1) the Internet Service Provider, see paragraph 0037 wherein meter used to measure the amount of minutes of the connection).

Regarding claim 40. Carlson teaches wherein the means for forwarding includes transmitting the data signal using a wireless local area network (WLAN) protocol (see 802.11 in paragraph 0005, see figure 1 wherein portable handheld device (item 124 figure 1) communicates wirelessly with Internet Service Provider).

Regarding claim 43. Carlson teaches an access point, comprising: a receive circuit configured to receive a data signal (see figure 1 wherein portable handheld device (item 124) is used to relay data signal between a first wireless device (item 114) and the wireless network (item 143) which connects to Internet Service Provider wherein the portable handheld device relays information from the ISP to the requesting first wireless device (item 114));

a transmit circuit configured to transmit the data signal over a wireless local area network (WLAN) to a network user node via a network access node in wireless communication with the network user node (see figure 1 wherein portable handheld device (item 124) is used to relay data signal between a first wireless device (item 114) and the wireless network (item 143) which connects to Internet Service Provider

wherein the portable handheld device relays information from the ISP to the requesting first wireless device (item 114)); and

an accounting circuit configured to provide account crediting information, wherein the account crediting information represents a credit to be recorded for an account associated with the access point.

Carlson shows wherein the Internet service provider provides access to the Internet via a fixed access point (see figure 1 wherein Internet service provider item 143 provides access to the Internet via fixed access point (see wire connection 145} or by wireless connection (see wireless connection 147).

Carlson does not use the term "crediting information represents a credit to be recorded for an account associated with the access point". However, Carlson teaches the Internet Service Provider (i.e. second account) gets paid for the connection services which obviously requires some sort of "account" to be given credit for services rendered --- paragraph 0052, Carlson also discloses that the owner of the second wireless portal (item 124) is also gets credit (i.e. first account) for relay Internet messages between the first user device (item 114) and the wireless network (item 143) --- paragraph 0052 which obviously requires the owners account (i.e. first account). In fact, Carlson teaches the owner of the second wireless device (item 124) can even service another wireless device that is willing to Pay more for the connection time (paragraph 0057) which obviously provides a higher credit towards the owners account (i.e. first account) wherein the receive circuit is coupled to a public switched telephone network (Carlson does not explicitly show wherein the data signal is received from a public

telephone. However, Carlson teaches the portable handheld device (item 124 figure 1) can use wireless communication between the first wireless device and Internet Service Provider network. Carlson further shows the portable handheld device (item 124 figure 1) can use wireline connection (item 145) to connect to the Internet Service Provider. Therefore, it would take very little effort for one of ordinary skill in the art to use wired connection (i.e. public telephone) to a first device because it is old and well-known that connection to Internet Service Provider can be made over public telephone line); and the data signal is received from an Internet service provider; and wherein the access point is a portable device (see figure 1 wherein portable handheld device (item 124) is used to relay data signal between a first wireless device (item 114) and the wireless network (item 143) which connects to Internet Service Provider wherein the portable handheld device relays information from the ISP to the requesting first wireless device (item 114)).

Regarding claim 45. Carlson teaches forwarding includes transmitting the data signal using a wireless local area network (WLAN) protocol (see 802.11 in paragraph 0005, see figure 1 wherein portable handheld device (item 124 figure 1) communicates wirelessly with Internet Service Provider).

Regarding claim 46. Carlson teaches wherein the credit is based on the forwarded data signal (see paragraphs 0052, 0046, 0057 wherein portable handheld device (item 124 figure 1) gets per minute connection credit for relaying Internet messages between first wireless device (item 114 figure 1) the Internet Service Provider).

Regarding claim 47. Carlson teaches wherein the credit is based on at least one of the time of day and airtime usage of the data signal (see paragraphs 0052, 0046, 0057 wherein portable handheld device (item 124 figure 1) gets per minute connection credit for relaying Internet messages between first wireless device (item 114 figure 1) the Internet Service Provider, see paragraph 0037 wherein meter used to measure the amount of minutes of the connection).

Regarding claim 49. Carlson teaches providing account debiting information to the accounting system, wherein the account debiting information represents a debit to be recorded for an account associated with the network user node (i.e. the first user device item 114 figure 1 -- see paragraphs 0051-0057 wherein the first wireless device pays for the requested Internet Service by using credit card number).

Regarding claim 60. Carlson teaches wherein the network access node (portable handheld device (item 124 figure 1) is a repeater (see figure 1 wherein portable handheld device (item 124) is used to relay data signal between a first wireless device (item 114) and the wireless network (item 143) which connects to Internet Service Provider wherein the portable handheld device relays information from the ISP to the requesting first wireless device (item 114)).

Regarding claim 61. Carlson teaches wherein the network access node (portable handheld device (item 124 figure 1)) is further part of an ad hoc network (see figure 1 and paragraph 0016 wherein hand-held PDA or cell phone forms a short- range network which reads on ad-hoc, see paragraph 0032 and figure 1 wherein short-range network is defined as a Personal Area Network which also reads on ad hoc).

Regarding claim 62. Carlson teaches wherein the network access node is an access point (see item 143 in figure 1 which is the point of access for the Internet service provider which can connect to the ad-hoc network via wire (item 145 figure 1) or wirelessly (item 147 figure 1 ).

Regarding claims 63-64. Carlson does not use the terms "first person's account" or "second person's account".

However, Carlson teaches the Internet Service Provider (i.e. second account) gets paid for the connection services which obviously requires some sort of "account" to be given credit for services rendered --- paragraph 0052, Carlson also discloses that the owner of the second wireless portal (item 124) is also gets credit (i.e. first account) for relay Internet messages between the first user device (item 114) and the wireless network (item 143) --- paragraph 0052 which obviously requires the owners account (i.e. first account). In fact, Carlson teaches the owner of the second wireless device (item 124) can even service another wireless device that is willing to pay more for the connection time (paragraph 0057) which obviously provides a higher credit towards the owners account (i.e. first account). Furthermore, Carlson teaches more than one portable handheld device (item 124 figure 1) may relay Internet service messages between a first device (item 114) and the Internet Service Provider network (item 143) which would obviously require each portable handheld device having their own personal account in order for them to receive credit for providing the relay service.

Regarding claim 65. Carlson teaches a method of adjusting at least one of an account of a first person associated with a network access node and an account of a second person associated with a network user node, comprising:

receiving a data signal wirelessly at the network access node (see figure 1 wherein portable handheld device (item 124) is used to relay data signal between a first wireless device (item 114) and the wireless network (item 143) which connects to Internet Service Provider;

forwarding the data signal wirelessly to the network user node (see figure 1 wherein portable handheld device (item 124) is used to relay data signal between a first wireless device (item 114) and the wireless network (item 143) which connects to Internet Service Provider wherein the portable handheld device relays information from the ISP to the requesting first wireless device (item 114));

providing account adjustment information to an accounting system, wherein the account adjustment information represents at least one of a credit to be recorded to the first person's account and a debit to be recorded to the second person's account.

Carlson shows wherein the Internet service provider provides access to the Internet via a fixed access point (see figure 1 wherein Internet service provider item 143 provides access to the Internet via fixed access point (see wire connection 145) or by wireless connection (see wireless connection 147).

Carlson does not use the term "account crediting information represents a credit to be recorded for an account associated with the network access node". However, Carlson teaches the Internet Service Provider (i.e. second account) gets paid for the

connection services which obviously requires some sort of "account" to be given credit for services rendered --- paragraph 0052, Carlson also discloses that the owner of the second wireless portal (item 124) is also gets credit (i.e. first account) for relay Internet messages between the first user device (item 114) and the wireless network (item 143) --- paragraph 0052 which obviously requires the owners account (i.e. first account). In fact, Carlson teaches the owner of the second wireless device (item 124) can even service another wireless device that is willing to pay more for the connection time (paragraph 0057) which obviously provides a higher credit towards the owners account (i.e. first account).

providing second account information to the accounting system, wherein the second account information represents a second credit to be recorded to an account associated with the Internet service provider and the data signal is provided by an Internet service provider; wherein the network access node and the network user node is a portable device.

Carlson does not use the term "second account". However, Carlson teaches the Internet Service Provider (i.e. second account) gets paid for the connection services which obviously requires some sort of "account" to be given credit for services rendered --- paragraph 0052, Carlson also discloses that the owner of the second wireless portal (item 124) is also gets credit (i.e. first account) for relay Internet messages between the first user device (item 114) and the wireless network (item 143) --- paragraph 0052 which obviously requires the owners account (i.e. first account). In fact, Carlson teaches the owner of the second wireless device (item 124) can even service another wireless

device that is willing to pay more for the connection time (paragraph 0057) which obviously provides a higher credit towards the owners account (i.e. first account). Furthermore, Carlson teaches more than one portable handheld device (item 124 figure 1) may relay Internet service messages between a first device (item 114) and the Internet Service Provider network (item 143) which would obviously require each portable handheld device having their own personal account in order for them to receive credit for providing the relay service.

Regarding claim 66. Carlson teaches the network user node is a portable, handheld device with display (see portable handheld device (item 124 figure 1) includes PDA or cell phone having display).

Regarding claim 67. Carlson teaches wherein the credit is based on the forwarded data signal (see paragraphs 0052, 0046, 0057 wherein portable handheld device (item 124 figure 1) gets per minute connection credit for relaying Internet messages between first wireless device (item 114 figure 1) the Internet Service Provider).

Regarding claim 68 Carlson teaches wherein the step of forwarding includes transmitting the data signal using a wireless local area network (WLAN) protocol (see 802.11 in paragraph 0005, see figure 1 wherein portable handheld device (item 124 figure 1) communicates wirelessly with Internet Service Provider).

Regarding claim 69 Carlson teaches wherein the WLAN protocol is the IEEE 802.11 protocol (see 802.11 in paragraph 0005).

2. Claims 11, 20, 39, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson et al (2002/0071416 hereinafter Carlson) in view of Bahl et al (7,444,669 hereinafter Bahl).

Regarding claims 11, 20, 39, and 48. Carlson does not appear to show using the meter to measure the number of packets for billing purposes.

Bahl also teaches methods and systems for providing variable rates of service for accessing networks (title, abstract) wherein clients are charged on a per packet or per byte basis (col. 3 lines 30-37, col. 3 lines 49-55) thereby allowing services providers the ability to charge more for higher data rates.

It would have been obvious for any one of ordinary skill in the art at the time of invention to modify the meter as taught by Carlson to monitor on a per packet or per byte basis as taught by Bahl in order to offer a more variety of service levels for accessing the Internet.

#### **(10) Response to Argument**

(I) Appellants argue that Carlson only shows the second wireless device and the service provider represented as the same device and billing and payment negotiations in Carlson all appear to be limited to negotiations between the first wireless device and second wireless device (brief pages 10-11).

The Examiner disagrees. The Examiner notes that independent claim 7 is only concerned with recording information but is extremely silent with respect to how to charge for the Internet service provider. Carlson figure 1 clearly shows cell phones (i.e. second wireless devices 124) used to provide Internet connection (item 143, please

note that the Internet connection can be wired 145 or wireless 147) to a first wireless device (i.e. first wireless device 114). Carlson is very clear that first wireless device sends request for service to connection providers that are within range and in response the connection providers reply with a service offer (paragraphs 0036, 0043, 0058, claims 3 and 16). In other words, Applicants contend that Carlson only shows one service provider offering Internet connection to the first wireless device via only one second wireless device. Instead, Carlson clearly teaches different mobile wireless access points offering wireless Internet connections to the first device having different service offers based upon availability, cost, speed, guaranteed speed, etc. This clearly implies that there would be more than two accounts. One account gets debited (i.e. the first device) and one or two or three or more accounts would get credited (i.e. depending on how many mobile wireless access points get selected by the first device to connect to the Internet).

Carlson allows the first mobile device to switch to a different mobile wireless access point even after the "best deal" has been found (paragraph 0047). For example, the first wireless device selects the mobile wireless access point offering Internet connection for 10 cents per minute (i.e. the first Internet Access provider) then later on another mobile wireless access point offering Internet connection for 5 cents per minute (i.e. a second Internet Access provider) moves into range of the first wireless device. The first wireless device would then switch to the mobile wireless access point that offers the best deal. In this Example, both the first Internet Access provider and second Internet Access provider would get credited since the first wireless device switches from

the first Internet Access provider offering 10 cents per minute to another Internet Service Provider offering 5 cents per minute.

Most importantly, Carlson at paragraph 0052 reveals that the present invention allows the owner of the network access node 124 (e.g., a cell phone acting as a mobile access point) can cover the per minute connection charge of the owner's service and defray some of the cost associated with cellular connection service (e.g., monthly cellular phone service charges). One of ordinary skill in the art at the time of invention would clearly recognize that a second account would be needed to pay the Internet service provider. This would also be true in the case that another network access node 124 offering a better deal (i.e. 5 cents per minute) instead of the previous access node 124 who offers (i.e. 10 cents per minute). One of ordinary skill in the art at the time of the invention would clearly recognize that other accounts (i.e. second, third, forth, etc.) would be needed to pay the Internet service provider that offers the best deal.

(II) Appellants repeat the argument for dependent claim 6 (brief page 12).

Regarding claim 6. Carlson teaches providing account debiting information to the accounting system, wherein the account debiting information represents a debit to be recorded for an account associated with the network user node (i.e. the first user device item 114 figure 1 -- see paragraphs 0038 and 0051-0057 wherein the first wireless device pays for the requested Internet Service by using credit card number).

(III) Appellants argue that Carlson does not teach using a wireless local area network (brief page 12).

The Examiner notes that Applicants originally filed specification at page 6 lines 1-26 discloses wireless local area network protocol is defined to be inclusive of IEEE 802.11 standard protocol, 802.5 token ring, carrier sense multiple access, mesh networks, and personal area networks (PAN), Bluetooth, and other ad hoc.

Carlson teaches wherein the step of forwarding includes transmitting the data signal using a wireless local area network (WLAN) protocol (see 802.11 in paragraph 0005, see figure 1 wherein portable handheld device (item 124 figure 1) communicates wirelessly with Internet Service Provider). Carlson teaches wherein the network access node (portable handheld device (item 124 figure 1)) is further part of an ad hoc network (see figure 1 and paragraph 0016 wherein hand-held PDA or cell phone forms a short-range network which reads on ad-hoc, see paragraph 0032 and figure 1 wherein short-range network is defined as a Personal Area Network).

#### **(11) Related Proceeding(s) Appendix**

Copies of the related court or Board decision(s) identified in the Related Appeals and Interferences section of this examiner's answer are contained in the brief.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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